

# Exhibit 297

*United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.*  
*v. Dey, Inc., et al.*, Civil Action No. 05-11084-PBS

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid in Support  
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

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4 IN RE PHARMACEUTICAL INDUSTRY

5 AVERAGE WHOLESALE PRICE LITIGATION

6 ----- Volume 2

7 THIS DOCUMENT RELATES TO: MDL NO. 1456 Civil

8 The City of New York, et al., Civil Action

9 v. No. 01-12257-PBS

10 Abbott Laboratories, et al.

11 -----  
12 THIS DOCUMENT RELATES TO:

13 State of California, et al.

14 Ven-A-Care v. Abbott Laboratories,

15 Inc., et al., Case No.

16 03-cv-11226-PBS,

17 \_\_\_\_\_/

18 JULY 9, 2008

19 DEPOSITION OF DEY, L.P. AND DEY, INC.

20 BY GARY WALKER

21 VOLUME II, PAGES 291 THROUGH 487

22 Reported By: WENDY L. VAN MEERBEKE, CSR No. 3676

1 would have come out in the proportions that are  
2 shown here?

3 A. Probably. This was an analysis on one  
4 SKU, kind of a unique problem we had.

5 Q. What was the problem?

6 A. 33337 refers to a metered-dose inhaler, a  
7 refill. We also had 33327 is the meter dose  
8 inhaler. Originally, the product ID was 30317 and  
9 30327. Those were the original. They came from  
10 Glaxo meter dose inhalers. At that point, we did  
11 have a refill.

12 I believe when 33317 came out based on  
13 this new NDC for the meter dose inhalers, I'm not  
14 sure of exactly the plan, but I think there was a  
15 -- within the data files, there was a product ID  
16 set out for the refill. We never actually shipped  
17 or sold the refill, but I believe we probably  
18 announced that we now switched the NDC to 33327 and  
19 thus in their systems now that was -- even though  
20 they were selling 30327, it now came through our  
21 system as 33317 -- 33327.

22 Q. So you had to pay the chargebacks with --